

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

RAMON ARAGON, *et al.*,
Defendants.

69cv07941- BB

RIO CHAMA STREAM SYSTEM
Section 3: Rio Cebolla

Subfile Nos. CHCB-001-0007;
CHCB-002-0001; CHCB-002-0002C

MOTION TO STAY LITIGATION PROCEEDINGS

COMES NOW the Plaintiff State of New Mexico, *ex rel.* State Engineer (“State”) and moves the Court to stay the litigation proceedings between the State and Defendants Geralda M. Chacon, Charlie Chacon and Delfin O and Frances S. Trust (“Defendants”) in Subfiles CHCB-001-0007, CHCB-002-0001 and CHCB-002-0002C, and as grounds states the following:

1. The disputed claims of the Defendants in the 3 subfiles described above are the subject of the Pretrial Order filed August 25, 2009 (Doc. 9491) (amended January 21, 2010, Doc. 9566).
2. The State and the Defendants wish to stay litigation proceedings for these 3 subfiles in order to pursue structured settlement negotiations. The State has obtained the approval of the State Engineer to use the services of Charles Kinney from the Office of State Engineer’s Hearing Unit to facilitate these discussions. Mr. Kinney is employed full time as a mediator in the Hearing Unit, and the use of his services in this matter would be without charge to the parties.
3. In addition, Gabriel Wade, who has been responsible for the prosecution of the disputed subfile proceedings up to this time, is no longer working in the Litigation and Adjudication Program of the Office of the State Engineer and has been reassigned to other duties. Barbara Bill will be

entering her appearance on behalf of the State in order to represent the State in this matter, including participation in the anticipated settlement negotiations described above. Ms. Brill will need a certain amount of time to familiarize herself with the background and issues involved in these subfiles, and a stay of proceedings will allow her the time to do this. Ms. Brill is also scheduled for surgery this coming week, and she will be unable to undertake a careful review of the files and other materials in these subfiles for several weeks.

4. Counsel for the State of New Mexico has conferred with Ted Trujillo, counsel for the Defendants in these 3 subfiles, and Mr. Trujillo agrees that there is a potential to reach a settlement agreement in these subfiles and that the parties interests would best be served by focusing on settlement discussions at this time rather than additional pretrial litigation. The parties anticipate that they will schedule settlement negotiations with Mr. Kinney acting as facilitator in April or early May. Following completion of settlement negotiations, the parties will file a status report with the Court. If the State and the Defendants are unable to reach an agreement on the Defendants' water rights in these 3 subfiles, the present litigation proceedings will be reinstated and the existing pretrial scheduling order will be amended as needed.

5. Ted Trujillo, counsel for the Defendants in the 3 subfiles described above, supports the granting of this motion.

WHEREFORE the State respectfully requests the Court to stay litigation proceedings, including all existing deadlines, under the Pretrial Order filed August 25, 2009 (Doc. 9491) (amended January 21, 2010, Doc. 9566) for the 3 subfiles described above (CHCB-001-0007, CHCB-002-0001 and CHCB-002-0002C).

Respectfully submitted,

/s/ Ed Newville

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8th day of February, 2010 I filed the foregoing electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail.

/s/ Ed Newville
EDWARD G. NEWVILLE